



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2084

Introduced 2/25/2005, by Sen. Carol Ronen

#### SYNOPSIS AS INTRODUCED:

30 ILCS 550/1

from Ch. 29, par. 15

Amends the Public Construction Bond Act. With respect to bonds securing contracts between the Capital Development Board or a public institution of higher education and a contractor, requires that within 15 days after notice to the surety that the principal is in default, the surety must (i) complete the work using a contractor selected jointly with the obligee or (ii) provide the obligee the amount needed to complete the work, in excess of the unpaid contract balance and up to the penal sum of the bond. Effective immediately.

LRB094 10174 JAM 40440 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Construction Bond Act is amended by  
5 changing Section 1 as follows:

6 (30 ILCS 550/1) (from Ch. 29, par. 15)

7 Sec. 1. Except as otherwise provided by this Act, all  
8 officials, boards, commissions or agents of this State, or of  
9 any political subdivision thereof in making contracts for  
10 public work of any kind costing over \$5,000 to be performed for  
11 the State, or a political subdivision thereof shall require  
12 every contractor for the work to furnish, supply and deliver a  
13 bond to the State, or to the political subdivision thereof  
14 entering into the contract, as the case may be, with good and  
15 sufficient sureties. The amount of the bond shall be fixed by  
16 the officials, boards, commissions, commissioners or agents,  
17 and the bond, among other conditions, shall be conditioned for  
18 the completion of the contract, for the payment of material  
19 used in the work and for all labor performed in the work,  
20 whether by subcontractor or otherwise.

21 If the contract is for emergency repairs as provided in the  
22 Illinois Procurement Code, proof of payment for all labor,  
23 materials, apparatus, fixtures, and machinery may be furnished  
24 in lieu of the bond required by this Section.

25 Each such bond is deemed to contain the following  
26 provisions whether such provisions are inserted in such bond or  
27 not:

28 "The principal and sureties on this bond agree that all the  
29 undertakings, covenants, terms, conditions and agreements of  
30 the contract or contracts entered into between the principal  
31 and the State or any political subdivision thereof will be  
32 performed and fulfilled and to pay all persons, firms and

1 corporations having contracts with the principal or with  
2 subcontractors, all just claims due them under the provisions  
3 of such contracts for labor performed or materials furnished in  
4 the performance of the contract on account of which this bond  
5 is given, when such claims are not satisfied out of the  
6 contract price of the contract on account of which this bond is  
7 given, after final settlement between the officer, board,  
8 commission or agent of the State or of any political  
9 subdivision thereof and the principal has been made.

10 Each bond securing contracts between the Capital  
11 Development Board or any board of a public institution of  
12 higher education and a contractor shall contain the following  
13 provisions, whether the provisions are inserted in the bond or  
14 not:

15 "Upon the default of the principal with respect to  
16 undertakings, covenants, terms, conditions, and agreements,  
17 the termination of the contractor's right to proceed with the  
18 work, and written notice of that default and termination by the  
19 State or any political subdivision to the surety ("Notice"),  
20 the surety shall promptly remedy the default by taking one of  
21 the following actions:

22 (1) The surety shall complete the work pursuant to a  
23 written takeover agreement, using a completing contractor  
24 jointly selected by the surety and the State or any  
25 political subdivision; or

26 (2) The surety shall pay a sum of money to the obligee,  
27 up to the penal sum of the bond, that represents the  
28 reasonable cost to complete the work that exceeds the  
29 unpaid balance of the contract sum.

30 The surety shall respond to the Notice within 15 working  
31 days of receipt indicating the course of action that it intends  
32 to take. If the surety elects to complete the work with a  
33 completing contractor and if the State or any political  
34 subdivision determines it is in the best interest of the State  
35 to maintain the progress of the work, the State or any  
36 political subdivision may continue to work until the completing

1 contractor is prepared to commence performance. The surety  
2 shall be liable for reasonable costs incurred by the State or  
3 any political subdivision to maintain the progress to the  
4 extent the costs exceed the unpaid balance of the contract sum,  
5 subject to the penal sum of the bond.".

6 The surety bond required by this Section may be acquired  
7 from the company, agent or broker of the contractor's choice.  
8 The bond and sureties shall be subject to the right of  
9 reasonable approval or disapproval, including suspension, by  
10 the State or political subdivision thereof concerned. In the  
11 case of State construction contracts, a contractor shall not be  
12 required to post a cash bond or letter of credit in addition to  
13 or as a substitute for the surety bond required by this  
14 Section.

15 When other than motor fuel tax funds, federal-aid funds, or  
16 other funds received from the State are used, a political  
17 subdivision may allow the contractor to provide a  
18 non-diminishing irrevocable bank letter of credit, in lieu of  
19 the bond required by this Section, on contracts under \$100,000  
20 to comply with the requirements of this Section. Any such bank  
21 letter of credit shall contain all provisions required for  
22 bonds by this Section.

23 (Source: P.A. 93-221, eff. 1-1-04.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.